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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

TINA MARIE NIELSEN, et al.

Serial No.: 09/591,539

Filed: June 9, 2000

For: TOWEL OR BLANKET WITH
INTEGRAL CARRYING CASE

) Art Unit: 3728

) Examiner:
) Troy G. Arnold III

APPEAL BRIEF

1. Real Party in Interest:

The real party in interest are the appellants, Tina Marie Nielsen and Larry M. Nielsen.

2. Related Appeals and Interferences:

None.

3. Status of Claims:

Claims 1-14 have been canceled.

Claims 15-48 are pending in the application.

Claims 29-48 are withdrawn from consideration.

Claims 15-28 were rejected in a Final Office Action dated November 21, 2003.

A Notice of Appeal was filed on February 23, 2004. Appellants are appealing the rejection of claims 15-28.

4. Status of Amendments:

No amendments have been filed subsequent to final rejection.

5. Summary of the Invention:

The summary of the invention will be provided by reading the appealed claims on the specification and drawings, as follows:

15. A combination [10] of a flexible sheet [12] usable as a towel or blanket and a carrying case [20] integral with said flexible sheet [12] comprising:

a flexible, rectangular sheet [12] having first and second ends [14, 15] and first and second longitudinal edges [16, 17]; and

a flexible carrying case [20] reversible from a transport and storage mode [FIG. 5] to a use mode [FIGS. 1-4] by pulling said carrying case [20] inside out, said carrying case [20] having first and second ends [FIGS. 1 and 3-5] and front and rear walls [21, 22], said carrying case [20] being open at said first end [FIG. 5] and closed at said second end [25], said front and rear walls [21, 22] of said carrying case [20] in said transport and storage mode [FIG. 5] each having an outer surface and an inner surface, a portion of said inner surface of one of said front and rear walls [21, 22] of said carrying case [20] being permanently attached to said sheet [12] [page 3, line 25 to page 4, line 1] at a location inwardly of said first end [14] of said sheet [12] and between said first and second longitudinal edges [16, 17] of said sheet [12] [FIGS. 1 and 3], said carrying case [20] wholly containing said sheet [12] within said carrying case [20] in said transport and storage mode [FIG. 5], said sheet [12] being wholly deployed outside of said carrying case [20] in said use mode [FIGS. 1-4] with said open first end of said carrying case facing one of said longitudinal edges [16, 17,] of said sheet [12] [FIGS. 1 and 3] and with said outer surface of said carrying case [20] forming the inner surface of a pillow case [page 5, lines 15-18].

16. The combination of claim 15 including a slip cover pocket [40] located at said first end [14] of said sheet [12], said slip cover [40] being configured to be placed over that end of a lounge chair [50] adapted to receive a user's torso.

17. The combination of claim 16 including a second slip cover pocket [42] located at said second end [15] of said sheet [12], said second slip cover pocket [42] being configured to be placed over the other end of said lounge chair [50].
18. The combination of claim 15 including at least one pocket [30, 32, 34 or 36] located adjacent each of said longitudinal edges [16, 17] of said sheet [12].
19. The combination of claim 18 wherein said pockets [30, 32] are all located substantially on said longitudinal edges [16, 17] of said sheet [12] and extend away from said sheet [FIGS. 1 and 2].
20. The combination of claim 18 wherein said pockets [34, 36] are all located inwardly of said longitudinal edges [16, 17] of said sheet [12].
21. The combination of claim 15 including carrying means [29] attached to said case [20] adjacent said open end. [See FIG. 5 and page 4, lines 11-17.]
22. The combination of claim 21 wherein said carrying means [29] is a strap.
23. The combination of claim 15 including a waterproof sheet attached to the bottom side of said flexible sheet, said waterproof sheet being substantially the same size as said flexible sheet. [See page 6, lines 1-9.]
24. The combination of claim 15 including a flap [26] extending from said rear wall [22] adjacent said open first end of said case, said flap adapted to be secured to said front wall of said case by fastener means when said sheet is stuffed inside said case for transport and storage. [See page 4, lines 5-10, and FIGS. 1, 3 and 5.]

25. A combination [10] of a flexible sheet [12] usable as a towel or blanket and a carrying case [20] integral with said flexible sheet [12] comprising:

a flexible, rectangular sheet [12] having first and second ends [14, 15] and first and second longitudinal edges [16, 17]; and

a flexible carrying case [20] reversible from a transport and storage mode [FIG. 5] to a use mode [FIGS. 1-4] by pulling said carrying case [20] inside out, said carrying case [20] having first and second ends [FIGS. 1 and 3-5] and front and rear walls [21, 22], said carrying case [20] being open at said first end [FIG. 5] and closed at said second end [25], said front and rear walls [21, 22] of said carrying case [20] in said transport and storage mode [FIG. 5] each having an outer surface and an inner surface, a portion of said inner surface of one of said front and rear walls [21, 22] of said carrying case [20] being permanently attached to said sheet [12] [page 3, line 25 to page 4, line 1] at a location inwardly of said first end [14] of said sheet [12] and between said first and second longitudinal edges [16, 17] of said sheet [12], said carrying case [20] wholly containing said sheet [12] within said carrying case [20] in said transport and storage mode [FIG. 5], said sheet [12] being wholly deployed outside of said carrying case [20] in said use mode [FIGS. 1-4] with said open first end of said carrying case facing one of said longitudinal edges [16, 17] of said sheet [12] [FIGS. 1 and 3] and with said outer surface of said carrying case [20] forming the inner surface of a pillow case [page 5, lines 15-18];

a slip cover pocket [40] located at said first end [14] of said sheet [12], said slip cover [40] being configured to be placed over that end of a lounge chair 50] adapted to receive a user's torso; and

at least one pocket [30, 32, 34 or 36] located adjacent at least one of said longitudinal edges [16 or 17] of said sheet [12].

26. The combination of claim 25 including a second slip cover pocket [42] located at said second end [15] of said sheet [12], said second slip cover pocket [40] being configured to be placed over the

other end of said lounge chair [50].

27. The combination of claim 25 including carrying means [29] attached to said case [20] adjacent said open end. [See FIG. 5 and page 4, lines 11-17.]

28. The combination of claim 25 including a flap [26] extending from said rear wall [22] adjacent said open first end of said case, said flap adapted to be secured to said front wall of said case by fastener means when said sheet is stuffed inside said case for transport and storage. [See page 4, lines 5-10, and FIGS. 1, 3 and 5.]

6. Issues:

a. Whether claims 15, 18, 19, 21 and 22 are unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt.

b. Whether claims 16, 17, and 25-27 are unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Silvestri.

c. Whether claim 20 is unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Battistella and Buhot et al.

d. Whether claim 23 is unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Terrazas.

e. Whether claim 24 is unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Battistella.

f. Whether claim 28 is unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Silvestri and Battistella.

g. Whether claims 15, 18, 20, 21 and 24 are unpatentable under 35 U.S.C. 103(a) over Hunt.

h. Whether claims 16 and 17 are unpatentable under 35 U.S.C. 103(a) over Hunt.

in view of Wade.

- i. Whether claim 23 is unpatentable under 35 U.S.C. 103(a) over Hunt.

In view of Terrazas.

7. Arguments:

The subparagraph letters of the following arguments are keyed to the subparagraph letters of the issues described in paragraph 6 above.

- a. Claims 15, 18, 19, 21 and 22:

These claims stand rejected as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt. Claim 15 is an independent claim, and claims 18, 19, 21 and 22 are dependent claims that ultimately depend from claim 15.

Since Wade is a design patent and its drawings do not contain reference numbers, appellants have attached hereto, as Appendix B, a copy of Wade marked-up with reference numbers in order to be able to more clearly discuss various features of Wade. Elements of Wade corresponding to elements of appellants' invention have been given the same reference numbers as those used in appellants' specification and drawings.

Wade describes a combined fitted lounge chair cover 12, cover face cloth 60, and tote bag 20. Cover 12 has first and second ends 14 and 15, and first and second longitudinal edges 16 and 17. A pocket 30 is located adjacent longitudinal edge 16.

Tote bag 20 of Wade is closed at a second end 25 and open at the other end, and has front and rear walls 21 and 22. The front and rear walls 21, 22 inherently have inner and outer surfaces. Cover face cloth 60 of Wade appears to be attached at one of its ends to the open end of tote bag 20 (at 62) and at its other end to cover 12 (at 64). It does not appear that cover 12 is independently attached to tote bag 20, but only to cover face cloth 60. See FIGS. 4 and 5 of Wade.

Appellants' independent claim 15 recites that "a portion of said inner surface of one of said front and rear walls of said carrying case [is] permanently attached to said sheet" (emphasis

added). See appellants' two independent claims 15 and 25. **Neither of the inner surface of Wade's front or rear walls 21 or 22 of tote bag 20 is attached to cover 12.**

Appellants' independent claim 15 recites that the "carrying case [is] reversible from a transport and storage mode to a use mode by pulling said carrying case inside out". **Wade's transparent and storage mode (see FIG.2 of Wade) is the same as her use mode (see FIGS. 1 and 3-5 of Wade).**

Appellants' claim 15 recites that the portion of the inner surface of one of the front or rear walls of the carrying case be permanently attached to the sheet "at a location inwardly of said first end of said sheet and between said first and second longitudinal edges of aid sheet".

The secondary reference of Hunt has been cited for its showing of an "envelope" 26 attached inwardly of the first end of his sheet 12. The examiner's position is that "[i]t would have been obvious in view of [Hunt] -- to make the [tote bag] of Wade attached inwardly of the first end of the sheet for the purpose -- of allowing it to better function as a pillow, should it be used in that manner".

Assuming it would have been obvious to modify Wade by moving her tote bag 20 to the position supposedly suggested by "envelope" 26 of Hunt, Wade's tote bag 20 would still be attached to cover 12 by means of cover face cloth 60. Hunt does not suggest attaching Wade's cover 12 to a portion of the inner surface of one of front or rear walls 21, 22 to provide a tote bag 20 reversible from a transport and storage mode to a use mode by pulling the tote bag inside out, and there is no reason to do so suggested by the combination of Wade and Hunt.

Appellants' claim 15 recites that when said carrying case is reversed to its use mode, "the outer surface of said carrying case [forms] the inner surface of a pillow case (emphasis added)." There is no suggestion by Wade that her tote bag 20 is useful as a pillow case, and in the location shown in her drawings it could not be so used. Even if Wade's tote bag were moved to the location of envelope 25 of Hunt and used as a pillow case, it would be the inner surface

of the tote bag forming the inner surface of the pillow case.

To establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). The limitations of claim 15 discussed above are not taught or suggested by the combination of Wade and Hunt. Therefore, it is submitted that independent claim 15 is nonobvious under 35 U.S.C. 103, and it is respectfully requested that the rejection of independent claim 15 as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt be reversed.

Claims 18, 19, 21 and 22 are ultimately dependent from independent claim 15. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Since independent claim 15 is submitted to be nonobvious for the reasons set forth above, it is respectfully requested that the rejection of dependent claims 18, 19, 21 and 22 as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt likewise be reversed.

b. Claims 16, 17, and 25-27:

These claims stand rejected as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Silvestri.

In addition to containing all of the limitations of claim 15, these claims recite that the combination of claim 15 include "a slip cover pocket located at said first end of said sheet" (claims 16 and 25), plus "a second slip cover pocket located at said second end of said sheet" (claims 17 and 26).

The examiner states that "Silvestri teaches a slip cover pocket at an upper or first end of a sheet for exactly the same purpose as the instant invention" and that it "would have been obvious in view of Silvestri to incorporate a slip cover pocket in the upper end of the sheet of Wade--".

However, claims 16, 17, and 25-27 contain all of the limitations of claim 15, and

Silvestri does not supply any of the deficiencies of the combination of Wade and Hunt discussed above relative to claim 15.

Since Silvestri does address nor supply the deficiencies of the combination of Wade and Hunt discussed above relative to independent claim 15, claims 16, 17, and 25-27 are likewise nonobvious over the combination of Wade, Hunt and Silvestri.

It is, therefore, respectfully requested that the rejection of claims 16, 17, and 25-27 as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt and Silvestri be reversed.

c. Claim 20:

This claim stands rejected as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Battistella and Buhot et al.

Claim 20 is dependent from claim 18, and recites that "at least one pocket [is] located adjacent each of said longitudinal edges of said sheet" and that "said pockets are all located inwardly of said longitudinal edges of said sheet".

The examiner states that Buhot, Hunt and Battistella all teach a beach towel with pockets located inward of the edges.

However, claim 20 contains all of the limitations of claim 15, and neither of Buhot or Battistella (either alone or in combination) supply any of the deficiencies of the combination of Wade and Hunt discussed above relative to claim 15.

It is, therefore, respectfully requested that the rejection of claim 20 as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, Battistella and Buhot be reversed

d. Claim 23:

This claim stands rejected as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Terrazas.

Claim 23 is dependent from claim 15, and recites that the combination include "a waterproof sheet attached to the bottom side of said flexible sheet, said waterproof sheet being substantially the same size as said flexible sheet."

The examiner states that "Terrazas teaches a sheet with a waterproof layer for a similar purpose" and that it "would have been obvious -- to put a waterproof layer on the bottom of the flexible sheet of Wade --".

However, this claim contains all of the limitations of claim 15, and Terrazas does not supply the deficiencies of the combination of Wade and Hunt discussed above relative to claim 15. It is, therefore, respectfully requested that the rejection of claim 23 as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt and Terrazas be reversed.

e. Claim 24:

This claim stands rejected as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Battistella.

Claim 24 is dependent from claim 15 and additionally includes "a flap extending from said rear wall adjacent said open first end of said case, said flap adapted to be secured to said front wall of said case by fastener means when said sheet is stuffed inside said case for transport and storage."

The examiner states that "Hunt teaches a flap 48 which extends from adjacent an o[pen first end of an analogous case" and that "Battistella teaches a flap 4 for a case 3 which extends from adjacent the opening."

However, claim 24 contains all of the limitations of claim 15, and Battistella does not supply the deficiencies of the combination of Wade and Hunt discussed above relative to claim 15. It is, therefore, respectfully requested that the rejection of claim 24 as being unpatentable

under 35 U.S.C. 103(a) over Wade in view of Hunt and Battistella be reversed and withdrawn.

f. Claim 28:

This claim stands rejected as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, and further in view of Silvestri and Battistella.

Claim 28 is dependent from independent claim 25. Independent claim 25 contains all of the limitations of independent claim 15. In addition to the limitations of parent claim 25, claim 28 additionally includes "a flap extending from said rear wall adjacent said open first end of said case, said flap adapted to be secured to said front wall of said case by fastener means when said sheet is stuffed inside said case for transport and storage."

The examiner states that "Hunt teaches a flap 48 which extends from adjacent an o[pen first end of an analogous case" and that "Battistella teaches a flap 4 for a case 3 which extends from adjacent the opening." Silvestri was cited for the same reason it was cited against parent claim 25, discussed above.

However, claim 28 contains all of the limitations of claim 25 (which contains all of the limitations of claim 15), and Battistella does not supply the deficiencies of the combination of Wade, Hunt and Silvestri discussed above relative to claim 15.

It is, therefore, respectfully requested that the rejection of claim 28 as being unpatentable under 35 U.S.C. 103(a) over Wade in view of Hunt, Silvestri and Battistella be reversed.

g. Claims 15, 18, 20, 21 and 24:

These claims stand rejected as being unpatentable under 35 U.S.C. 103(a) over Hunt alone.

Hunt describes a beach towel including a sheet 12 having envelopes or pockets 22, 24 and 26 attached thereto. Upper envelope 26 includes an inner panel 28 and an outer panel 30. Inner and outer panels 28 and 30 are coextensive at their bottom edge 32, left edge 34 and right edge 36, and are stitched to sheet 12 along bottom, left and right seam lines 38, 40 and 42, respectively. The configuration shown in the drawings would correspond to the "use mode" described in

appellants' claims.

Independent claim 15 recites --“a flexible carrying case reversible from a transport and storage mode to a use mode by pulling said carrying case inside out, --said carrying case wholly containing said sheet within said carrying case in said transport and storage mode--“.

Nowhere does Hunt describe his upper envelope 26 as being reversible from a transport and storage mode to a use mode by pulling said carrying case inside out, and that in the transport and storage mode the envelope is of a size that can wholly contain his sheet 12. In discussing the use of upper envelope 26 for storage, he states that goods that could be stored in upper envelope 26 “may include – a small towel–“. Clearly if one were to reverse envelope 26 of Hunt, which he does not suggest doing and requires an improper hindsight use of appellants' own teaching, the envelope 26 would not be large enough to contain sheet 12 which is clearly much larger than a “small towel”. Any assertion that it would be obvious to enlarge envelope 26 of Hunt would require additional hindsight use of appellants' own teaching, which is clearly improper.

In addition, claim 15 recites that the open first end of the carrying case faces one of the longitudinal edges of the sheet. Hunt's upper envelope 26 has an open end that faces the top of his sheet 20. The Examiner asserts that it would be obvious to rotate Hunt's upper envelope 26 “so that it might be more easily accessed when someone is lying on the sheet” and “that there is no apparent criticality to the open end of the case of the Applicant's invention facing the longitudinal edge of the sheet”. Applicants are not required to assert a criticality for a limitation, and every limitation in a claim must be considered in judging patentability. There would be no reason to rotate Hunt's upper envelope 26 except for Applicants' own teaching, which is improper. It should be noted that Hunt's beach towel 10 would not infringe Applicants' claim 15 which is an indication that it does not render Applicants' claimed combination unpatentable.

It is submitted that claim 15 is not obvious over Hunt under 35 U.S.C. 103(a), and it is respectfully requested that the rejection of this claim over Hunt be reversed.

Claims 18, 20, 21 and 24 are all ultimately dependent from claim 15, and since claim

15 is submitted to be patentable over Hunt for the reasons just discussed, dependent claims 18, 20, 21 and 24 would likewise be patentable thereover, and it is requested that the rejection of these claims be reversed.

With regard to claim 24, it further recites that the combination of claim 15 includes “a flap extending from said rear wall adjacent said open first end of said case, said flap adapted to be secured to said front wall of said case by fastener means when said sheet is stuffed inside said case for transport and storage”. The Examiner states that if Hunt’s sheet were stuffed inside his upper envelope 26, “the strips 50 and 52 on the flap 48 and portion 30 could secure the flap to the front wall of the case”. However, if Hunt’s upper envelope 26 were reversed, strip 50 would be located inside the envelope and strip 52 would be located on the outside of flap 48. This can easily be seen by taking a paper envelope and turning it inside out.

h. Claims 16 and 17:

These claims stand rejected as being unpatentable under 35 U.S.C. 103(a) over Hunt in view of Wade. These claims are dependent from claim 15, and since claim 15 is submitted to be patentable over Hunt for the reasons give above, and since Wade is cited to show a slip cover pocket, Wade clearly does not supply the deficiencies of Hunt relative to claim 15. Therefore, it is submitted that these claims are patentable over this combination of references, and it is requested that the rejection of these claims be reversed.

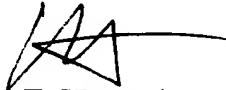
i. Claim 23:

This claim stands rejected as being unpatentable under 35 U.S.C. 103(a) over Hunt in view of Terrazas. This claim is dependent from claim 15, and since claim 15 is submitted to be patentable over Hunt for the reasons give above, and since Terrazas is cited for its showing of a waterproof sheet, Terrazas clearly does not supply the deficiencies of Hunt relative to claim 15. Therefore, it is submitted that these claims are patentable over this combination of references, and it is requested that the rejection of this claim be reversed..

8. Conclusion:

For the reasons set forth above, it is respectfully requested that this honorable Board of Patent Appeals and Interferences reverse all of the outstanding rejections of claims 15-28, and return the application to the examiner for action consistent with its decision.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'R. E. Howard', with a long horizontal stroke extending to the right.

Robert E. Howard
Registration No. 22,437



APPENDIX A

A clean copy of appealed claims 15-28:

15. A combination of a flexible sheet usable as a towel or blanket and a carrying case integral with said flexible sheet comprising:

a flexible, rectangular sheet having first and second ends and first and second longitudinal edges; and

a flexible carrying case reversible from a transport and storage mode to a use mode by pulling said carrying case inside out, said carrying case having first and second ends and front and rear walls, said carrying case being open at said first end and closed at said second end, said front and rear walls of said carrying case in said transport and storage mode each having an outer surface and an inner surface, a portion of said inner surface of one of said front and rear walls of said carrying case being permanently attached to said sheet at a location inwardly of said first end of said sheet and between said first and second longitudinal edges of said sheet, said carrying case wholly containing said sheet within said carrying case in said transport and storage mode, said sheet being wholly deployed outside of said carrying case in said use mode with said open first end of said carrying case facing one of said longitudinal edges of said sheet and with said outer surface of said carrying case forming the inner surface of a pillow case.

16. The combination of claim 15 including a slip cover pocket located at said first end of said sheet, said slip cover being configured to be placed over that end of a lounge chair adapted to receive a user's torso.

17. The combination of claim 16 including a second slip cover pocket located at said second end of said sheet, said second slip cover pocket being configured to be placed over the other end of said lounge chair.

18. The combination of claim 15 including at least one pocket located adjacent each of said longitudinal edges of said sheet.

19. The combination of claim 18 wherein said pockets are all located substantially on said longitudinal edges of said sheet and extend away from said sheet.

20. The combination of claim 18 wherein said pockets are all located inwardly of said longitudinal edges of said sheet.

21. The combination of claim 15 including carrying means attached to said case adjacent said open end.

22. The combination of claim 21 wherein said carrying means is a strap.

23. The combination of claim 15 including a waterproof sheet attached to the bottom side of said flexible sheet, said waterproof sheet being substantially the same size as said flexible sheet.

24. The combination of claim 15 including a flap extending from said rear wall adjacent said open first end of said case, said flap adapted to be secured to said front wall of said case by fastener means when said sheet is stuffed inside said case for transport and storage.

25. A combination of a flexible sheet usable as a towel or blanket and a carrying case integral with said flexible sheet comprising:

a flexible, rectangular sheet having first and second ends and first and second longitudinal edges; and

a flexible carrying case reversible from a transport and storage mode to a use mode by pulling said carrying case inside out, said carrying case having first and second ends and front and rear walls, said carrying case being open at said first end and closed at said second end, said front and rear walls of said carrying case in said transport and storage mode each having an outer surface and an inner surface, a portion of said inner surface of one of said front and rear walls of said carrying case being permanently attached to said sheet at a location inwardly of said first end of said sheet and between said first and second longitudinal edges of said sheet, said carrying case wholly containing said sheet within said carrying case in said transport

and storage mode, said sheet being wholly deployed outside of said carrying case in said use mode with said open first end of said carrying case facing one of said longitudinal edges of said sheet and with said outer surface of said carrying case forming the inner surface of a pillow case;

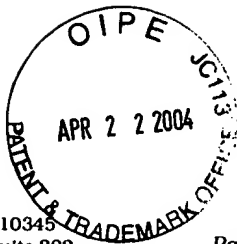
a slip cover pocket located at said first end of said sheet, said slip cover being configured to be placed over that end of a lounge chair adapted to receive a user's torso; and

at least one pocket located adjacent at least one of said longitudinal edges of said sheet.

26. The combination of claim 25 including a second slip cover pocket located at said second end of said sheet, said second slip cover pocket being configured to be placed over the other end of said lounge chair.

27. The combination of claim 25 including carrying means attached to said case adjacent said open end.

28. The combination of claim 25 including a flap extending from said rear wall adjacent said open first end of said case, said flap adapted to be secured to said front wall of said case by fastener means when said sheet is stuffed inside said case for transport and storage.



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EXHIBIT A

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January 10, 2003

Commissioner for Patents
Washington, D.C. 20231

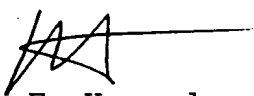
Re: Application of TINA MARIE NIELSEN, et al
Serial No. 09/591,539
Filed: June 9, 2000
Art Unit: 3728
Examiner: Troy G. Arnold III

Sir:

Enclosed are the following papers or fees relating to the subject application:

- [x] Appeal Brief, in triplicate
- [x] Appeal Brief fee of \$160 (PTO-2038)
- [x] Postcard receipt

Respectfully submitted,

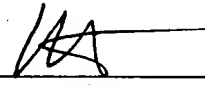

Robert E. Howard
Registration No. 22,437

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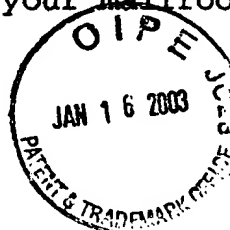


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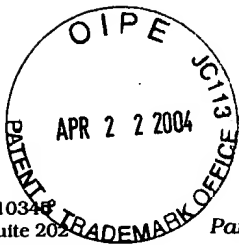
Re: Application of TINA MARIE NIELSEN, et al.
Serial No. 09/591,539 filed 6/9/2000

Sir: Please acknowledge receipt of the attached transmittal letter dated 1/10/03, credit card form PTO-2038 for \$160, and appeal brief in triplicate by placing your mailroom stamp hereon and mailing this card.



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April 18, 2004

Mail Stop APPEAL BRIEF-PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Re: Application of TINA MARIE NIELSEN, et al.
Serial No. 09/591,539 Filed: June 9, 2000
Art Unit: 3728
Examiner: Troy G. Arnold III

Sir:

Enclosed is Appellants' Appeal Brief, in triplicate.

Appellants paid an appeal brief fee of \$160 with a previous appeal brief mailed to the USPTO on January 10, 2003, and received on January 16, 2003. See copies of documentation evidencing the prior payment attached to this letter as Exhibit A. The Examiner subsequently withdrew the Final Rejection upon which that appeal had been taken, mailed a modified rejection, and, after reply by appellants, provided a new Final Rejection from which this current appeal has been taken. The current appeal brief fee is \$165, and a check in the amount of \$5.00 is enclosed to cover the difference between the prior appeal brief fee paid and the now current fee.

Respectfully submitted,

Robert E. Howard
Registration No. 22, 437

CERTIFICATE OF MAILING

I hereby certify that this correspondence and/or fee is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop APPEAL BRIEF-PATENTS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the following date: April 18, 2004.

Robert E. Howard 4/18/2004